

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

KEITH CONNELL, INC.,

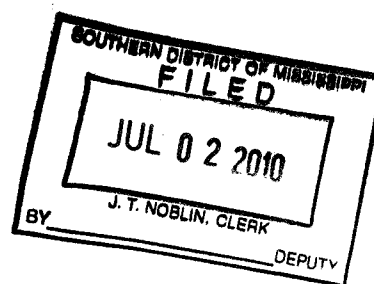
Plaintiff,

vs.

MID-SOUTH PRODUCE COMPANY
OF JACKSON, INC., MID-SOUTH
PRODUCE COMPANY, JUDITH H.
WHITE aka JUDITH H. BOONE,
WILLIAM E. WHITE, and LEE D.
BOONE,

Defendants.

Case No.: 3:10CV376 HTW-LRA



PLAINTIFF'S MOTION FOR ISSUANCE OF PRELIMINARY
INJUNCTION AND MOTION TO CONSOLIDATE THE TRIAL ON THE
MERITS WITH HEARING ON PRELIMINARY INJUNCTION

Plaintiff, Keith Connell, Inc., by and through its undersigned counsel, moves this Court for entry of a Preliminary Injunction enforcing the statutory trust imposed by Section 5(c) of the Perishable Agricultural Commodities Act¹ on the assets of Defendants Mid-South Produce Company of Jackson, Inc. ("Mid-South Jackson") and Mid-South Produce Company ("Mid-South Grenada").

This Motion is supported by the Declaration of Michael Meyer, Salesman of Keith Connell, Inc. and the Memorandum of Law - both filed contemporaneously with this Motion.

¹ 7 U.S.C. §499e(c)(4)

Moreover, Keith Connell, Inc. requests that this Court enter an order consolidating the hearing on the Motion for a Preliminary Injunction with the trial on the merits as permitted by Rule 65(a)(2), Fed.R.Civ.P.:

Before or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application.

The District Court has discretion as in determining whether or not consolidation of the Preliminary Injunction hearing with the trial is appropriate.² Keith Connell, Inc. submits that consolidation is appropriate with respect to its claims under PACA, and that consolidation will conserve the time and resources of the Court and of the parties.

WHEREFORE, Keith Connell, Inc. requests that the Court enter a Preliminary Injunction enforcing the statutory trust pursuant Section 5(c) of the Perishable Agricultural Commodities Act by segregating all trust assets of Mid-South Jackson and Mid-South Grenada, and that this Court enter an Order consolidating the hearing on the Preliminary Injunction with the trial on the merits pursuant to Rule 65 (a)(2), Fed.R.Civ.P.

² See Air Line Pilots Assn., Int'l v. Alaska Airlines, Inc., 898 F.2d 1393 (9th Cir., 1990).

Respectfully submitted on July, 2nd, 2010.

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